falling within the parameters set forth in the subject claims and in fact, does not set forth any amount of starch which would be effective. Yang teaches in column 7, line 14, that representative examples of sweeteners include hydrogenated starch hydrolyzate and partially hydrolyzed starch. In the example in column 7 of the Yang patent, sweeteners, (including starch) are stated to be in the range of 6%-70% by weight There are no examples utilizing starch. As a result, to include starch in Yang's composition would require undue experimentation, as one would then have to adjust the other ingredients accordingly, decide whether to add an actual "sweetener", as well as how the starch interacts with the other ingredients, such as gum. In column 8, line 60 of the Yang patent it teaches that an optional material such as modified corn starch and tapioca dextrin, as well as other conventional confectionery additives may be used. No teaching is present concerning the amount of starch envisioned here. Under *In re Hoeksema*, 158 USPQ 596 (CCPA, 1968), the test is stated to be that the art must be such "as to place the disclosed compound in the possession of the public", thus, Hoeksema concludes that the absence of a known or obvious process for making the claimed compounds overcomes the presumption that the compounds are obvious. In applying this maxim to the subject case, there is no teaching or suggestion that starch should be included in the subject composition at an amount of 10%-50% with the other ingredients in the claimed ranges. There is no art of record teaching that, in a system such as Applicant's for use as a carrier on a discrete dosage form, starch can be included at that amount.

Applicant's claims also call for sugar in claims 1 and 12 and sucrose in claim 26. Yang et al. specifically states that his preferred system has no sugar (column 10, lines 38 and 39). In fact, sugar is not listed in any of the examples. Thus, to include sugar in a formulation such as Applicant's is directly taught against by Yang. Further, the absence of sugar and a teaching of the correct amount of starch in Yang renders the rejection under 35 U.S.C. §102 untenable.

Claims 1-5, 9-26 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Yang et al. Applicant incorporates the above comments concerning the teachings of Yang with respect to starch and sugar. The Examiner has stated that the ranges provided in '153 encompass the specific amounts of the instant claims. The ranges provided in Yang simply provide the incentive of an "obvious to try" ingredient, which is not the standard of patentability. *In re Goodwin*, 198 USPQ 1 (CCPA 1978). The Examiner has stated that "it is submitted that these amounts are manipulatable parameters that would be obvious to one skilled in the art at the time of the invention to adjust to obtain a chewable dosage form." The Examiner has not placed any reference into the record to support such a statement. Assuming that starch many be deemed either a "flavor/color" or a "sweetener", insofar the Examiner has not made of record any prior art document suggesting to one to manipulate ingredients to obtain a chewable dosage form without undue experimentation to arrive at a product with acceptable properties, the Examiner has merely elucidated an "obvious to try" standard.

The Examiner has also stated that Yang's inclusion of several sugars in column 7, lines 7-22 demonstrate that the use of sucrose would merely be an embodiment of Yang. Applicant disputes this interpretation of Yang stating that Yang specifically discloses that his preferred embodiment is non-sugar, non-fat. As a result, the sweeteners listed on column 7, lines 12-15 cannot be equivalent to sugar or sucrose, as Yang specifically states they are not. It would therefore go directly against the teachings of Yang if one were to substitute sucrose for one of his named sweeteners. On this basis alone, the claims should be allowable.

Applicant respectfully requests reconsideration and reexamination thereof.

With the above amendments and remarks, this application is considered ready for allowance. Should the Examiner be of the opinion that a telephone conference would expedite prosecution of the subject application, he is respectfully requested to call the undersigned at the below-listed number.

Respectfully submitted,

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